

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRIMINAL MISC.NO.20077 M OF 2007

DATE OF DECISION: APRIL 04, 2007

Palminder Singh

.....Petitioner

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. Sameer Sachdeva, Advocate,
for the petitioner.

RANJIT SINGH, J.

The petitioner alleges that he is a victim of fraud but is made an accused in case FIR No.57 dated 6.5.2006 registered under Sections 419, 420, 465, 467, 468, 471, 120-B IPC at Police Station Makhu. Accordingly, he has approached this Court for quashing of the said FIR. He also claims that a reading of the FIR would reveal offences against Lakhbir Singh accused and nothing would be made out against him.

A perusal of the copy of the FIR annexed with the petition as Annexure P-1 would show that the petitioner had applied for loan of Rs.6 lacs for purchase of harvesting combine and to secure the same, had produced a Jamabandi in regard to land measuring 170 Kanals 1 Marla in the area of Village Gatta Badshah, Tehsil Zira. The petitioner was identified by Lakhbir

Singh, who is termed as accused No.2 in the FIR. It is alleged that the petitioner had got the loan sanctioned by misrepresenting himself as Pargat Singh, who is shown to be owner of the land. When the petitioner failed to pay the amount as agreed, it created a doubt in the mind of the Bank Manager, who made enquiries into the matter from the concerned revenue Patwari. He then learnt that Jamabandi and Khasra Girdawari produced by the accused with the Bank are forged documents and the land shown in the jamabandi was not owned by the petitioner and his co-accused. It is alleged that the Bank Manager then also learnt that the petitioner had misrepresented himself as Pargat Singh and, thus, both the accused, in connivance with each other, had committed fraud with the bank by raising this loan in a fraudulent manner. The FIR is accordingly registered against the petitioner.

After registration of the case, investigation was conducted by the police and it is now revealed that actual name of Pargat Singh is Palwinder Singh son of Baldev Singh and that the Girdawari deposited by the borrowers at the time of taking loan from the Bank is forged document. Investigation has also revealed that Lakhbir Singh son of Balkar Singh is intimately related to the then Halqa Patwari, Rattan Singh and on his connivance a forged Jamabandi for the year 1994-95 was got prepared in the name of Pargat Singh against the entries in the revenue records. Lakhbir Singh had got the loan amount by telling the name of Palwinder Singh as Pargat Singh. He himself stood as a guarantor of the borrower, Pargat Singh, who in fact is Palwinder Singh (petitioner). It is also revealed that Lakhbir Singh himself had taken this loan by preparing this forged file in the

name of Pargat Singh and he had also deposited some loan instalments. This in fact is the main basis of the submissions by counsel for the petitioner. He submits that in fact all this fraud and manipulation was done by Lakhbir Singh accused whereas the petitioner is totally innocent and a victim of the said fraud. The counsel would make reference to Annexure P-2, an order granting anticipatory bail to the petitioner, to submit that loan had in fact been obtained by Lakhbir Singh by affixing the petitioner's photograph upon the documents. He also refers to the fact that the original record relating to loan documents was called for and then it transpired that photograph of the petitioner attached on the loan documents was the handy work of the Bank officials. By making reference to Annexure P-3, the counsel points out that non-existence of bank seal on the photograph on the loan documents when compared with the specimen of the same maintained in a normal course would clearly show that the photograph of the petitioner had been put subsequently on the said documents.

It is seen that the basic submission made by the counsel for the petitioner relates to the facts alone. Attempt is to show that the petitioner in fact never applied for a loan and is involved only on account of fraud having been played by Lakhbir Singh, his co-accused. The basis of these submissions is only on appreciation of facts which are first required to be proved by leading evidence before the trial Court. On the basis of material placed on record and the averments in the petition, it cannot be said that the petitioner is not involved and that he is a victim of any fraud. All the aspects raised by the petitioner in this petition are required to be proved by cogent

evidence and only then it can be decided if indeed the petitioner is involved in this case or not or he is a victim of the said fraud due to connivance by his co-accused, Lakhbir Singh. Exercise of jurisdiction under Section 482 Cr.P.C. is not appropriate to return a finding of fact. This finding cannot even be given on the basis of material placed before this Court. Accordingly, no case for quashing the impugned FIR is made out.

The present petition is accordingly dismissed in limine.

**April 04, 2007
khurmi**

**(RANJIT SINGH)
JUDGE**